



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

Robert McNemar

3436249

(Enter above the full name of the plaintiff
or plaintiffs in this action).

(Inmate Reg. # of each Plaintiff)

VERSUS

CIVIL ACTION NO. 2:25-CV-00062
(Number to be assigned by Court)

William Marjhall, III, Jonathan Frame,
Josh Ward, Brenda Ward,
Samuel Savilla, Andrew Hill.

(Enter above the full name of the defendant
or defendants in this action)

COMPLAINT

I. Previous Lawsuits

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes No ✓

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs: N/A

Defendants: N/A

2. Court (if federal court, name the district; if state court, name the county):

N/A

3. Docket Number: N/A

4. Name of judge to whom case was assigned:

N/A

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

N/A

6. Approximate date of filing lawsuit: N/A

7. Approximate date of disposition: N/A

II. Place of Present Confinement: Mount Olive Correctional Complex

A. Is there a prisoner grievance procedure in this institution?

Yes ✓ No _____

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes ✓ No _____

C. If your answer is YES:

1. What steps did you take? I filed a Grievance with the Unit

Manager and Appealed to the Superintendent and Commissioner.

2. What was the result? Grievance Denied

D. If your answer is NO, explain why not: N/A

III. Parties

(In item A below, place your name and inmate registration number in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff: Robert McNemar 3436249

Address: MOCC one mountainside way Mt.Olive WV 25185

B. Additional Plaintiff(s) and Address(es): _____

(In item C below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item D for the names, positions, and places of employment of any additional defendants.)

C. Defendant: William Marshall, III

is employed as: Commissioner

at West Virginia Division of Corrections and Rehabilitation

D. Additional defendants: Jonathan Frame, Superintendent MOCC,

Josh Ward, Associate Superintendent, Brenda Ward, Associate

Superintendent of Programs, Samuel Savilla, Associate Superintendent of Security, Andrew Hill, QII Unit Manager, MOCC.

IV. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

See Attached

STATEMENT OF CLAIM

I was placed in Administrative Segregation (Ad-Seg.) for investigation into a possible Crime of delivering drugs to inmates in Ad-Seg. through the Law Library. The evidence presented to me by the MOCC Investigator was a "Snitch Note" and a text message that was taken out of context. Due to the fact that I was already scheduled to see the Ad-Seg. Committee (ASC) and I never received a disciplinary write-up, I doubt any serious investigation took place.

In preparing for the ASC Hearing, I discovered that I was NOT permitted to have an attorney attend the hearing with me, despite the fact that I was under investigation for a crime, I decided to waive appearance before the ASC and invoke my right to remain silent. Regardless of the weak evidence against me, the ASC decided that I should be placed on the Quality of Life Program (QOL) without a write-up or any disciplinary proceedings in violation of the 14th Amendment requiring Due Process.

I was locked-down for seventy-two hours straight until being placed on the QOL program and started on that daily schedule. On the QOL program all meals are served through the Bean Hole and are usually cold with small portions which are eaten alone in the cell. The last meal of the day is served between 3:00 PM and 3:30 PM which is fifteen hours between the evening meal and breakfast that is served at 6:30 AM right after Pill Call. The meal trays do not come with any kind of eating utensil most of the time which forces inmates to wash and re-use disposable spoons.

Inmates on the QOL program are locked in the cell 23 hours

per day in a standard prison cell which is smaller than a parking space. The cells have solid steel doors with a five inch by thirty-six inch window running vertically and a bean hole that is kept locked at all times except when access is needed such as feeding time. The cell that I am housed in has a back window with two five inch slots for sunlight, a bunk, sink, toilet, desk, stool, and TV and storage shelf. The pod has sixteen cells with insufficient noise dampeners when combined with the solid steel doors make communication impossible due to the echo.

Inmates in Ad-seg./QOL get one hour, usually in the middle of the night, for out of cell recreation/exercise five days per week. The out of cell recreation takes place in a pod with the windows knocked-out, in cages no bigger than a standard parking space. The cages have no water or facilities and are littered with urine, feces, and birds that have flew in and died. There are no weights, balls, or recreational equipment of any kind and an inmate must submit to a degrading strip search before leaving the cell and coming back. On Saturday and Sunday, inmates are locked down twenty-four hours per day with no human contact except the officers delivering the food trays and nurses bringing medications.

The inmates on Ad Seg./QOL do have access to tablets and can get a TV once they reach Level III on the program. However, you can lose access to both if you receive a write-up or are found to be non-compliant with the QOL program. The cells are hot in the summer and cold in the winter despite the fact that the building has air-conditioning and heat.

Inmates in Ad seg./QOL have no access to educational or rehabilitation programs or classes which prevent one from taking classes or programming which could affect parole eligibility. We have no access to Congregate religious services and I personally have not seen the Chaplain come to the Williams Unit since I have been housed on the Unit. Other than the QOL packets one is required to complete, there are no other rehabilitative activities or programming for inmates on the QOL Program.

Basically, inmates on Ad seg./QOL are treated worse than dogs at the pound. The dogs at the pound are at least socialized everyday and are taken outside to feel the sun and breathe fresh air. Inmates on the QOL are not even permitted to shower but three times a week but they have to endure a degrading ritual of being stripped out, made to lift their scrotum, then put fingers in their mouth and all over their face before being handcuffed and shackled to literally walk a couple of feet to the shower.

In the time I have been on Ad seg./QOL, my physical and mental health has declined. Despite the fact that I suffer both mentally and physically, I do not dare speak-up and tell staff anything because those who do are punished by being thrown in a cell in a pickle suit and nothing else. I have experienced that too many times over the years to try to get "help" because their idea of help is hell. The small comforts I have, I am not willing to risk, so I go on suffering.

The thing that I want the Court to remember is that I never was written-up and as a matter of fact have not had a write-up since 2011. The simple truth is that there is no other evidence against me because

if there was, I would have received a disciplinary write-up and been referred for prosecution. The simple fact is that there was and is no credible evidence against me because I did nothing wrong.

Therefore, for all of the foregoing, the Defendants, acting under the Color of State Law are violating my 8th Amendment Right Not to be Subject to Cruel and unusual Punishment. Despite the fact that all of the Defendant's are Career Corrections employees, they continue to be deliberately Indifferent to Inmates such as myself, health and well-being. The impecical evidence of the negative affects of Solitary Confinement on human beings nowadays is almost common knowledge. So the Defendant's, with more than 75 years combined experience in Corrections, have no excuse to keep Subjecting human beings to the horrid isolation described herein other than Sadistic pleasure for which they all should be held personally liable.

IV. Statement of Claim (continued):

See Attached

V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments.
Cite no cases or statutes.

See Attached

RELIEF REQUESTED

Because the Defendant's are and Continue to be deliberately indifferent to the harm Solitary Confinement has had on plaintiff's physical and mental Health and Knowingly Keep inflicting Such Cruel and Unusual punishment on him in Violation of the 8th Amendment to the United States Constitution, Plaintiff Respectfully Requests this Honorable Court to:

- (a) Find the Conditions of Confinement for Plaintiff violate the 8th Amendment and are Cruel and Unusual punishment;
- (b) Find the Defendant's personally liable for Compensatory Damages;
- (c) Find the Defendant's personally liable for punitive Damages;
- (d) Grant Declaratory and Injunctive Relief to Plaintiff;
- (e) Grant reimbursement of fees and Attorney fees Should Plaintiff employ an attorney for representation;
- (f) Any other relief the Court deems just and necessary.

It is so prayed

Robert McNemar
Robert McNemar

V. Relief (continued):

See Attached

VII. Counsel

A. If someone other than a lawyer is assisting you in preparing this case, state the person's name:

N/A

B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action?

Yes _____ No

If so, state the name(s) and address(es) of each lawyer contacted:

N/A

If not, state your reasons: I am indigent and do not have the resources to hire an attorney

C. Have you previously had a lawyer representing you in a civil action in this court?

Yes _____ No

If so, state the lawyer's name and address:

N/A

Signed this 29th day of January, 2025.

Robert McRae

Signature of Plaintiff or Plaintiffs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 29, 2025
(Date)

Robert W. McRae
Signature of Movant/Plaintiff

N/A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

Robert McNemar

Your full name

v.

Civil Action No.: 2:25-cv-00062

William Marshall, III

Jonathan Frame, Josh Ward,

Samuel Savilla, Brenda Ward

Andrew Hill

Enter above the full name of defendant(s) in this action

Certificate of Service

I, Robert McNemar (your name here), appearing *pro se*, hereby certify that I have served the foregoing 42 USC § 1983 Complaint (title of document being sent) upon the defendant(s) by depositing true copies of the same in the United States mail, postage prepaid, upon the following counsel of record for the defendant(s) on

January 29, 2025 (insert date here):

(List name and address of counsel for defendant(s))

Robert McNemar
(sign your name)